IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.

INCOME TAX APPEAL NO.798 OF 2002

The Commissioner of Income Tax,
City-VII, Bombay. .. Appellant

v/s.

M/s. Roha Dyechem Pvt.Ltd. .. Respondent

Ms.S.V.Bharucha i/by Mr.K.B.Rao for appellant.

CORAM : R.M.LODHA AND
J.P.DEVADHAR, JJ.

DATED : 14th September, 2004

P.C.

Heard.

2. In the memo of appeal, the following questions

of law have been proposed:-

"A) Whether on the facts and in the circumstances of the case and in law, the ITAT erred in dismissing the appeal of the revenue and confirming the order of the CIT(A) is directing to delet the addition of a sum of Rs.8,77,670/- the same being the unutilised Modvat credit on the closing stock?

B) Whether on the facts and circumstances of the case and in law, the Tribunal is correct in holding that the Insurance receipts received by the assessee due to damage to Plant & Factory Building should not be deducted from the cost of assets, while working on the claim of depreciation?"

3. In so far as question (A) is concerned, we find

that the said question stands concluded by the judgment of the Supreme Court in the case of Commissioner of Income Tax v. Indo Nippon Chemicals Co.Ltd., 261 ITR 275. The proposed question (A) is, therefore, not a substantial question of law.

4. As regards proposed question (B), we find that the said question is not the substantial question of law and the view of the Tribunal does not suffer from any infirmity.

Dismissed.

(R.M.LODHA, J.)

(J.P. DEVADHAR, J.)